

have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (section 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.”

The changes to the treatment schedule do not increase the application rate for methyl bromide, but they do increase the length of time for the fumigation. The increase in time to 24 hours does not require more usage of methyl bromide if the fumigation enclosure is sealed well and the fumigation is conducted properly. The decrease in required concentrations over time within the fumigation enclosure in the revised treatment schedule makes allowance for additional adsorption of methyl bromide to the wood that occurs over the extended time period. APHIS also notified the Environmental Protection Agency (EPA) of this change. The EPA responded that it does not consider the change to be significant. Based on this information, we have determined this revision meets the definition of a categorically excluded action under CEQ’s regulations for implementing the procedural provisions

of NEPA (40 CFR parts 1500–1508), USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS’ NEPA Implementing Procedures (7 CFR part 372).

The record of categorical exclusion determination may be viewed on the Regulations.gov Web site or in our reading room. (Instructions for accessing Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

■ Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. In § 319.40–3, paragraph (b)(1)(ii), including the table, is revised to read as follows:

§ 319.40–3 General permits; articles that may be imported without either a specific permit or an importer document.

- * * * * *
- (b) * * *
- (1) * * *
- (ii) Fumigated with methyl bromide in an enclosed area for at least 24 hours at the following dosage, stated in terms of grams of methyl bromide per cubic meter of the enclosure being fumigated. Following fumigation, fumigated products must be aerated to reduce the concentration of fumigant below hazardous levels, in accordance with the label instructions approved by the U.S. Environmental Protection Agency:

Temperature (°C/°F)	Dosage (g/m³)	Minimum required concentration g/m³ after:				
		0.5 hr	2 hrs	4 hrs	12 hrs	24 hrs
21/70 or above	48	36	36	31	28	24
16/61 or above	56	42	42	36	32	28
10/50 or above	64	48	48	42	36	32

The minimum temperature should not be less than 10 °C/50 °F and the minimum exposure time should be 24 hours.

* * * * *

Done in Washington, DC, this 25th day of May 2007.

Kevin Shea,
Acting Administrator, Animal and Plant Health Inspection Service.
[FR Doc. E7–10559 Filed 5–31–07; 8:45 am]
BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2006–0125]

RIN 0579–AC39

Importation of Emerald Ash Borer Host Material From Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are establishing regulations to prohibit or restrict the importation of certain articles from Canada that present a risk of being infested with emerald ash borer. This action is necessary to prevent the artificial spread of this plant pest from infested areas in Canada to noninfested areas of the United States and to prevent

further introductions of this plant pest into the United States.

DATES: This interim rule is effective June 1, 2007. We will consider all comments that we receive on or before July 31, 2007.

ADDRESSES: You may submit comments by either of the following methods:

Federal eRulemaking Portal: Go to <http://www.regulations.gov>, select “Animal and Plant Health Inspection Service” from the agency drop-down menu, then click “Submit.” In the Docket ID column, select APHIS–2006–0125 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site’s “User Tips” link.

Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies)

to Docket No. APHIS-2006-0125, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to APHIS-2006-0125.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Hesham Abuelnaga, Import Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 734-6334.

SUPPLEMENTARY INFORMATION:

Background

The emerald ash borer (EAB, *Agrilus planipennis*) is a destructive wood-boring insect that attacks ash trees (*Fraxinus* spp., including green ash, white ash, black ash, and several horticultural varieties of ash). The insect, which is indigenous to Asia and known to occur in China, Korea, Japan, Mongolia, the Russian Far East, and Taiwan, eventually kills healthy ash trees after it bores beneath their bark and disrupts their vascular tissues.

EAB was first found in North America in ash trees in several counties in Michigan in July 2002, and subsequently in a small area in Ontario, Canada. On October 14, 2003, we published an interim rule in the **Federal Register** (68 FR 59082-59091, Docket No. 02-125-1) in which we quarantined 13 counties in Michigan and placed restrictions on the interstate movement of regulated articles from those quarantined areas to prevent the artificial spread of EAB to other States. Additional detections of EAB were made in Ohio in November 2003, in Indiana in April 2004, and in Illinois in June 2006. Subsequent interim rules¹ have extended the quarantined area to

additional counties in Michigan, and to the entire States of Illinois, Indiana, and Ohio. Officials of the United States Department of Agriculture (USDA) and of State, county, and city agencies have been conducting intensive survey and eradication programs in the infested areas in the affected States. Illinois, Indiana, Michigan, and Ohio have quarantined the EAB-infested areas and imposed restrictions on the intrastate movement of certain articles from the regulated areas to prevent the artificial spread of EAB within each State. Similarly, provincial officials in Ontario and officials of the Canadian Food Inspection Agency (CFIA) have been conducting extensive survey and eradication activities in the infested areas in Ontario. Plant health officials in the United States and Canada have been working cooperatively to establish a regulatory framework to address the risk of the artificial spread of EAB between the two countries.

The regulations in 7 CFR part 319, "Foreign Quarantine Notices," prohibit or restrict the importation of certain plants and plant products to prevent the introduction or dissemination of plant pests and noxious weeds into the United States. In order to prevent the artificial spread of EAB from Canada into noninfested areas of the United States, we are amending our regulations in part 319 to restrict or prohibit the importation of EAB host material into the United States from EAB-infested areas of Canada. These requirements are consistent with the requirements imposed by the CFIA with respect to the importation into Canada of EAB host material from EAB-infested areas of the United States.

Nursery Stock

The regulations contained in "Subpart-Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products," §§ 319.37 through 319.37-14 (referred to below as the regulations), restrict, among other things, the importation of living plants, plant parts, and seeds for propagation.

Nursery stock, plants, and other propagative plant material that cannot be feasibly inspected, treated, or handled to prevent them from introducing plant pests new to or not known to be widely prevalent in or distributed within and throughout the United States are listed in § 319.37-2 as prohibited articles. Prohibited articles may not be imported into the United States unless imported by the USDA for experimental or scientific purposes, or under specified safeguards.

Ash nursery stock imported into the United States from areas in Canada

regulated under the Canadian Ministry of Agriculture and the CFIA's EAB Infested Place Orders² presents a significant risk of spreading the pest; therefore, we are amending § 319.37-2 to list any ash nursery stock originating in these EAB-regulated areas in Canada as prohibited articles. Previously, we believed that small ash trees (trees smaller than 460 millimeters or approximately 18 inches in height and half an inch or less in diameter) could not serve as a host for the pest. However, subsequently we found EAB on ash stock that measured less than half an inch in diameter. Therefore, we are prohibiting the importation into the United States of all ash trees, regardless of size, that originate in regions regulated by the CFIA under the EAB Infested Place Orders because of EAB. We have amended the entry for articles of the genus *Fraxinus* in the table of prohibited articles in paragraph (a) of § 319.37-2 to indicate these restrictions.

Alternately, nursery stock, plants, and other propagative plant material that can be inspected, treated, or handled to prevent them from spreading plant pests are designated in the regulations as restricted articles. Paragraph (a) of § 319.37-3 lists restricted articles that may be imported or offered for importation into the United States after issuance of a written permit by the Plant Protection and Quarantine programs, Animal and Plant Health Inspection Service (APHIS). We are adding a provision to this section to require that ash nursery stock that originates in counties or municipal regional counties not regulated for EAB but which are within Provinces or Territories in Canada regulated for EAB may only be imported after issuance of an import permit by APHIS. Nursery stock originating in unaffected Provinces or Territories (*i.e.*, Provinces or Territories without areas regulated for EAB) and seeds of *Fraxinus* spp. from anywhere in Canada present little risk of spreading EAB into the United States and will not require import permits. We are adding a new paragraph (a)(19) to § 319.37-3 to reflect these changes.

Paragraph (a) of § 319.37-4 of the regulations states that, except for small lots of seed imported in accordance with § 319.37-4(d), any restricted article offered for importation into the United States must be accompanied by a

¹ These interim rules were published January 4, 2005 (70 FR 249-253, Docket No. 02-125-2), March 3, 2005 (70 FR 10315-10318, Docket No. 02-125-3), October 31, 2005 (70 FR 62230-62232, Docket No. 05-067-1), May 24, 2006 (71 FR 29762-29766, Docket No. APHIS-2006-0046), October 2, 2006 (71 FR 57871-57873, Docket No. APHIS-2006-0131), and April 2, 2007 (72 FR 15597-15598, Docket No. APHIS-2007-0005).

² Infested Place Orders are the means by which the CFIA regulates EAB-infested areas within Canada. Links to the Infested Place Orders for the infested areas in Canada and other information about Canada's EAB program can be viewed online at the CFIA's Web site at <http://www.inspection.gc.ca/english/plaveg/pestrava/agrpla/agrplae.shtml>.

phytosanitary certificate or, in the case of certain greenhouse-grown plants from Canada, a certificate of inspection in the form of a label. Paragraph (c) of § 319.37–4 lists the requirements for importing certain greenhouse-grown plants from Canada without a phytosanitary certificate.

Considering the serious threat posed by EAB, we believe it is necessary to require all ash nursery stock-including greenhouse-grown ash nursery stock-from Canada that is eligible for importation (*i.e.*, ash nursery stock that does not originate in an EAB-regulated county or municipal regional county within a Canadian Province or Territory) to be accompanied by a phytosanitary certificate of inspection, as defined in § 319.37–1. The phytosanitary certificate must include an additional declaration stating that the material was produced or harvested in a county or municipal regional county where EAB does not occur.

Ash Logs and Wood and Ash Wood and Bark Chips

The regulations in “Subpart-Logs, Lumber, and Other Unmanufactured Wood Articles” (7 CFR 319.40–1 through 319.40–11, referred to below as the regulations) are intended to mitigate the plant pest risk presented by the importation of logs, lumber, and other unmanufactured wood articles.

Under the regulations in § 319.40–2, logs, lumber, and other unmanufactured wood articles must be imported with the following: (1) A permit and (2) an importer document that lists the genus and species of the tree from which the regulated article was derived, the country and locality, if known, where the tree from which the regulated article was derived was harvested, the quantity of the regulated article to be imported, the use for which the regulated article is imported, and any treatments or handling of the regulated article required by the regulations that were performed prior to arrival at the port of first arrival. These requirements are intended to protect against the introduction of plant pests, including EAB, into the United States.

However, the provisions of § 319.40–2 have not applied to ash logs, lumber, and other unmanufactured wood articles imported into the United States from Canada which only require a general permit under § 319.40–3(a). Other than regulated articles of the subfamilies Aurantioideae, Rutoideae, and Toddaliodeae of the botanical family Rutaceae, and pine articles from regions regulated for pine shoot beetle (*Tomicus pinniperda*) on their way to a facility operating under a compliance

agreement for specified treatment or handling, currently regulated articles from Canada covered by the general permit need only be accompanied by an importer document stating that they were derived from trees harvested in Canada and have never been moved outside Canada. Therefore, we are amending § 319.40–3 to exclude regulated articles of the genus *Fraxinus* from Canada from eligibility for importation under general permit, and we are specifying provisions for the importation of these articles in a new paragraph (n) of § 319.40–5.

Section 319.40–5 sets out importation and entry requirements for articles that require more specific conditions for importation. Since there are particular risks associated with the importation of various articles derived from trees of the genus *Fraxinus*, we are adding the measures described below in a new paragraph (n) to mitigate these risks. Regulated articles of the genus *Fraxinus* (ash) from Canada may only be imported in accordance with these measures and subject to the certification requirements in § 319.40–2(a) and the inspection and other requirements in § 319.40–9.

Studies by the USDA and independent researchers have shown that EAB larvae do not survive the grinding process in wood or bark chips that are less than 1 inch in diameter. Wood and bark chips this size are also too small to support EAB larval growth. Therefore, the risk of pest introduction associated with these wood and bark chips is low. For this reason we are allowing wood and bark chips that measure 1 inch or less in two dimensions to be imported into the United States under the conditions described below. Additionally, we are designating all hardwood species of firewood as regulated articles because as hardwood is dried and cut into firewood, it is difficult to identify the *Fraxinus* (ash) species from other species of tree from which the firewood was derived.

Canada may refer to regions within recognized legal boundaries within a Province or Territory as “counties” or “municipal regional counties;” for the sake of clarity and simplicity, we refer to those regions simply as counties. Under this rule, the following requirements apply to specified articles:

- *Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in an EAB-regulated county within a Province or Territory regulated for EAB by the CFIA* require a permit and must be accompanied by a phytosanitary certificate with an

additional declaration stating that the articles in the shipment were (1) debarked, and vascular cambium was removed to a depth of 1.27 cm (½ inch) during the debarking process, or (2) heat treated in accordance with § 319.40–7(c). If articles were heat-treated, the method of treatment must be described in the treatment section of the certificate.

- *Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a county not regulated for EAB within a Province or Territory regulated for the EAB by the CFIA* require an import permit and must be accompanied by a phytosanitary certificate with an additional declaration stating that the articles in the shipment were produced/harvested in a county where the EAB does not occur, based on official surveys.

- *Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a Province or Territory that is not regulated for EAB by the CFIA* must be accompanied by an importer document that certifies that the article did not originate in a Province or Territory known to be affected with EAB. Since articles from unaffected Provinces or Territories present little risk of carrying EAB, we are not requiring a permit or phytosanitary certificate for these items.

- *Ash wood chips or bark chips larger than 1 inch (2.54 cm) in diameter in any two dimensions that originate in an EAB-regulated county within a Province or Territory that is regulated for EAB by the CFIA* are prohibited importation into the United States.

- *Ash wood chips or bark chips 1 inch (2.54 cm) or less in diameter that originate in an EAB-regulated county within a Province or Territory that is regulated for EAB by the CFIA* require a permit and must be accompanied by a phytosanitary certificate with an additional declaration stating that the wood or bark chips in the shipment were ground to 1 inch (2.54 cm) or less in diameter in any two dimensions.

- *Ash wood chips or bark chips that originate in a county not regulated for EAB within a Province or Territory regulated for EAB by the CFIA* require a permit and must be accompanied by a certificate with an additional declaration stating that the articles in the shipment were produced/harvested in a county where the EAB does not occur, based on official surveys.

- *Ash wood chips or bark chips that originate in a Province or Territory that is not regulated for EAB by the CFIA* must be accompanied by an importer

document that certifies that the article did not originate in a Province or Territory known to be affected by EAB. Since articles from unaffected Provinces or Territories present little risk of carrying EAB, we are not requiring a permit or a certificate for these items.

Articles being moved through Canada from counties not regulated for EAB may not transit an EAB-regulated area in Canada en route to the United States unless they are moved directly through the regulated area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs). If these articles are being moved through the EAB-regulated area in Canada between May 1 and August 31 or when the ambient air temperature is 40 °F or higher, they must be in an enclosed vehicle or completely covered to prevent access by the EAB.

Miscellaneous

Section 319.40–1 provides definitions for terms that apply to all of the regulations in the subpart. The definition of *certificate* details the information that must be provided on certificates of inspection, which includes a description of the restricted articles intended to be imported into the United States as well as any specific additional declarations that may be required by the specific sections of the regulations. We are amending the definition of *certificate* to specify that the certificate is addressed to Plant Protection and Quarantine Programs, the national plant protection organization of the United States. We are doing this for purposes of clarity.

Emergency Action

Immediate action is necessary to prevent the spread of EAB into noninfested regions of the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this

action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the economic effects of this interim rule on small entities. Based on the information we have, there is no reason to conclude that this rule will result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the economic impacts of this rule on small entities. Therefore, we are inviting comments on potential economic impacts. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this rule.

Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

This interim rule amends the regulations to prohibit or restrict the importation of certain articles from Canada that present risk of being infested with EAB. This action is

necessary on an emergency basis to prevent the spread of the pest from infested areas in Canada to noninfested areas of the United States, and to prevent further introductions of the pest into the United States.

The EAB has been found in ash trees in counties in Michigan, Ohio, Illinois, and Indiana in the United States, and in Essex County, Ontario, Canada. The economic impact could be severe if the EAB is allowed to spread from infested areas to the surrounding forests of the northeastern United States, where nursery, landscaping, and timber industries, and forest-based recreation and tourism industries play a vital economic role. APHIS's EAB import requirements are consistent with the EAB import requirements imposed by the CFIA with respect to the importation of EAB host material from the United States into Canada.

As a result of this rule, importation into the United States of ash nursery stock, and wood chips and bark chips larger than 1 inch in diameter is prohibited from the EAB-regulated areas in Canada. Additional documentation is required for all products from both EAB-regulated and non-regulated areas in Canada (table 1).

Ash logs and wood imported from EAB-regulated counties in Canada will require a permit and phytosanitary certificate, and an appropriate treatment of the wood. Thus, businesses in the regulated counties in Canada that wish to export ash logs and wood to the United States will have to incur additional costs for heat treatment or debarking. The cost of heat treatment has been estimated at \$10.40 to \$23.75 per cubic meter (35.314 cubic feet) of treated wood and the cost of debarking has been estimated at \$2 per cubic meter of wood. However, the regulations still provide for the importation of products from non-regulated counties and Provinces/Territories in accordance with the provisions outlined in this interim rule.

TABLE 1.—REQUIREMENTS FOR ASH PRODUCTS IMPORTED INTO THE UNITED STATES FROM EAB-REGULATED AND NON-REGULATED AREAS IN CANADA

Ash product	Regulated counties	Non-regulated counties
Ash nursery stock	Prohibited	Permit or phytosanitary certificate.
Ash logs and wood	Permit and phytosanitary certificate, and debarked or heat treated.	Importer document.
Ash wood chips and bark chips larger than 1 inch in diameter.	Prohibited	Importer document.
Ash wood chips and bark chips less than 1 inch in diameter.	Importer document and phytosanitary certificate.	Importer document.

U.S. Wood Imports From Canada

In 2005, the value of wood imports into the United States from Canada was \$14.2 billion. This represented 60 percent of the value of all wood imports into the United States (\$23.8 billion) (U.S. Trade Statistics, 2007). Lumber accounted for 49 percent of wood imports into the United States from Canada, valued at \$6.93 billion in 2005. However, 95 percent of this value accrued to coniferous wood, while non-coniferous wood accounted for only 5 percent. The volume of ash wood lumber imports from Canada was 5,937 m³, with a value of \$1.74 million. This represented only 0.03 percent of value and 0.002 percent of volume of lumber imports from Canada. Thus, this rule will affect less than 1 percent of United States lumber imports from Canada. Imports of non-coniferous wood chips from Canada amounted to \$5.94 million in 2005. However, the percentage of non-coniferous wood chips derived from ash is not reported.

Ontario accounted for 10 percent of the value of United States lumber imports from Canada in 2005, in Canadian dollars. This estimate includes all woods, and data are not available for ash specifically. Essex, Elgin, and Lambton Counties, Ontario, are regulated for EAB by CFIA. These three counties, which are located at the southern tip of Ontario, are the least forested counties in southern Canada, and relatively little nursery stock has traditionally moved from these counties to either the United States or other parts of Canada.

Affected Entities

The Small Business Administration (SBA) has established size criteria based on the North American Industry Classification System (NAICS) for determining which economic entities meet the definition of a small firm. The small entity size standard for nursery and tree production (NAICS code 111421) is \$750,000 or less in annual receipts, and \$6 million or less in annual receipts for forest nurseries and gathering of forest products (NAICS code 113210). The SBA classifies logging operations (NAICS code 113310), sawmills (NAICS code 321113), and wood product manufacturers (NAICS subsector 321) generally as small entities if they have 500 or fewer employees.

APHIS does not have an estimate of the number of these types of entities that would be affected by the rule. Since the EAB only infests certain species of trees, only a subset of the logging, wood manufacturing, and nursery and

seedling operations would potentially be affected, and only to the extent that products are imported from the areas in Canada affected by the rule. Because most businesses engaged in tree or lumber production or wood product manufacturing are small entities, we expect that firms affected by this rule will primarily be small in size. APHIS welcomes information that the public is able to provide regarding the number and size of firms that may be impacted.

Alternatives

There are no significant alternatives to this rule that would meet the objective of reducing the pest risk of importing articles from Canada that are infested with EAB, while minimizing economic impacts for affected entities. Pest risks associated with ash logs and wood, and ash wood chips and bark chips less than 1 inch in diameter, could be addressed by simply prohibiting their importation from Canada, but this could put unwarranted restrictions on international trade since debarking, heat treatment, and grinding into chips have been shown to kill EAB effectively, thus reducing the pest risk associated with such importations. Conversely, allowing importation of ash nursery stock and ash wood chips larger than 1 inch in diameter from regulated Canadian counties, even with treatment, would yield unacceptable risks of EAB introduction. The documentation and treatment requirements of the interim rule best satisfy our phytosanitary objectives while minimizing economic impacts for United States entities, large or small.

This interim rule contains certain information collection or recordkeeping requirements (see "Paperwork Reduction Act" below).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579-0319 to the

information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. APHIS-2006-0125, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. APHIS-2006-0125 and send your comments within 60 days of publication of this rule.

This interim rule establishes regulations to prohibit or restrict the importation of certain articles from Canada that present a risk of being infested with EAB. This interim rule is necessary to prevent the artificial spread of plant pests from infested areas in Canada to noninfested areas of the United States and to prevent further introductions of plant pests into the United States. We are soliciting comments from the public (as well as affected agencies) concerning our information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.6 hours per response.

Respondents: Importers, officials of CFIA, and nursery industry.

Estimated annual number of respondents: 5.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 5.

Estimated total annual burden on respondents: 3 hours. (Due to averaging,

the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government

information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this interim rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

■ Accordingly, 7 CFR part 319 is amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. In § 319.37-2, paragraph (a), the table entry for "Fraxinus spp. (ash)" is revised to read as follows:

§ 319.37-2 Prohibited articles.

(a) * * *

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
Fraxinus spp. (ash)	Any county or municipal regional county in Canada regulated because of the emerald ash borer. Europe	<i>Agrilus planipennis</i> (emerald ash borer). <i>Pseudomonas savastanoi</i> var. <i>fraxini</i> (Brown) Dowson (Canker and dwarfing disease of ash).
* * *	* * *	* * *

* * *

■ 3. Section 319.37-3 is amended as follows:

■ a. In paragraph (a) (17), by removing the word "and" at the end of the paragraph.

■ b. In paragraph (a)(18), by removing the period at the end of the paragraph and adding the word "; and" in its place.

■ c. By adding a new paragraph (a)(19) to read as set forth below.

§ 319.37-3 Permits.

(a) * * *

(19) Articles (except seeds) of *Fraxinus* spp. (ash) from counties or municipal regional counties in Canada that are not regulated for emerald ash borer (EAB) but are within an EAB-regulated Province or Territory and are not prohibited under § 319.37-2(a).

* * *

§ 319.37-4 [Amended]

■ 4. In § 319.37-4, the introductory text of paragraph (c) is amended by removing the word "A" and adding the words "With the exception of *Fraxinus* spp. (ash) plants, a" in its place.

§ 319.40-1 [Amended]

■ 5. In § 319.40-1, the definition of *certificate* is amended by adding the words "which is addressed to the plant protection service of the United States (Plant Protection and Quarantine Programs)," after the word "grown,".

■ 6. In § 319.40-3, a new paragraph (a)(1)(i)(C) is added to read as follows:

§ 319.40-3 General permits; articles that may be imported without a specific permit; articles that may be imported without either a specific permit or an importer document.

(a) * * *

(1) * * *

(i) * * *

(C) Regulated articles of *Fraxinus* spp. (ash), which are subject to the requirements in § 319.40-5(n).

* * *

■ 7. In 319.40-5, a new paragraph (n) is added and the OMB citation at the end of the section is revised to read as follows:

§ 319.40-5 Importation and entry requirements for specified articles.

* * *

(n) *Regulated articles of the genus Fraxinus from Canada.* Except for articles prohibited under paragraph (n)(4) of this section, regulated articles of the genus *Fraxinus* (ash) from Canada may be imported in accordance with this paragraph (n) and subject to the certification requirements in § 319.40-2(a) and the inspection and other requirements in § 319.40-9. Articles being moved from counties or municipal regional counties in Canada not regulated for the emerald ash borer (EAB) may not transit an EAB-regulated area in Canada en route to the United States unless they are moving directly through the EAB-regulated area without

stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs). If these articles are being moved through the regulated area between May 1 and August 31 or when the ambient air temperature is 40 °F or higher, they must be in an enclosed vehicle or completely covered to prevent access by the emerald ash borer.

(l) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a county or municipal regional county regulated for the emerald ash borer within a Province or Territory regulated by the Canadian Government for the emerald ash borer require a permit issued under § 319.40-2(a) and must be accompanied by a certificate bearing an additional declaration that the articles in the shipment were:

(i) Debarked, and vascular cambium removed to a depth of 1.27 cm (½ inch) during the debarking process; or

(ii) Heat treated in accordance with § 319.40-7(c). The phytosanitary certificate accompanying such articles must describe the treatment method employed.

(2) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a county or municipal regional county not regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer require a permit issued under

§ 319.40–2(a) and must be accompanied by a certificate with an additional declaration stating that the articles in the shipment were produced/harvested in a county or municipal regional county where the emerald ash borer does not occur, based on official surveys.

(3) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a Province or Territory that is not regulated for the emerald ash borer must be accompanied by an importer document that certifies that the article originated in a county or municipal regional county free of the emerald ash borer.

(4) The importation of ash wood chips or bark chips larger than 1 inch diameter in any two dimensions that originate in a county or municipal regional county regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer is prohibited.

(5) Ash wood chips or bark 1 inch or less in diameter that originate in an area regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer must be accompanied by a permit issued under § 319.40–2(a) and a phytosanitary certificate with an additional declaration stating that the wood or bark chips in the shipment were ground to 1 inch (2.54 cm) or less in diameter in any two dimensions.

(6) Ash wood chips or bark chips that originate in a county or municipal regional county not regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer must be accompanied by a permit issued under § 319.40–2(a), and a valid certificate with an additional declaration stating that the articles in the shipment were produced/harvested in a county or municipal regional county where the emerald ash borer does not occur, based on official surveys.

(7) Ash wood chips or bark chips that originate in a Province or Territory that is not regulated for the emerald ash borer must be accompanied by an importer document that certifies that the article originates in a Province or Territory free of the emerald ash borer.

(Approved by the Office of Management and Budget under control numbers 0579–0049, 0579–0257, and 0579–0319).

Done in Washington, DC, this 25th day of May 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–10562 Filed 5–31–07; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. APHIS–2006–0104]

Classical Swine Fever Status of the Mexican State of Nayarit

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations for importing animals and animal products by adding the Mexican State of Nayarit to the list of regions considered free of classical swine fever (CSF). We are also adding Nayarit to the list of CSF-free regions whose exports of live swine, pork, and pork products to the United States must meet certain certification requirements to ensure their freedom from CSF. These actions relieve restrictions on the importation into the United States of pork, pork products, live swine, and swine semen from Nayarit while continuing to protect against the introduction of this disease into the United States.

DATES: *Effective Date:* June 18, 2007.

FOR FURTHER INFORMATION CONTACT: Dr. Chip Wells, Senior Staff Veterinarian, Regionalization Evaluation Services-Import, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

On January 31, 2007, we published in the **Federal Register** (72 FR 4463–4467, Docket No. APHIS–2006–0104) a proposal¹ to amend the regulations for importing animals and animal products in 9 CFR part 94 by adding the Mexican State of Nayarit to the list of regions considered free of classical swine fever (CSF) in § 94.25, and adding Nayarit to the list of CSF-free regions in §§ 94.9

¹ To view the proposed rule, go to <http://www.regulations.gov>, click on the “Advanced Search” tab, and select “Docket Search.” In the Docket ID field, enter APHIS–2006–0104, then click “Submit.” Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

and 94.10 whose exports of live swine, pork, and pork products to the United States must meet certain certification requirements to ensure their freedom from CSF.

On February 22, 2007, we published a document in the **Federal Register** (72 FR 7934, Docket No. APHIS–2006–0104) correcting two instances in the preamble of our proposed rule where we erroneously mentioned adding Nayarit to a list of CSF-affected regions, which we should have referred to as a list of CSF-free regions.

We solicited comments concerning our proposal for 60 days ending April 2, 2007. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. This rule adds Nayarit to the lists of regions considered free of CSF and allows pork, pork products, live swine,² and swine semen to be imported into the United States from Nayarit, subject to certain conditions. We have determined that approximately 2 weeks are needed to ensure that Animal and Plant Health Inspection Service (APHIS) and Department of Homeland Security, Bureau of Customs and Border Protection, personnel at ports of entry receive official notice of this change in the regulations. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective 15 days after publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This rule amends the regulations for importing animals and animal products by adding the Mexican State of Nayarit to the list of regions considered free of CSF. We are taking this action at the

² APHIS considers all of Mexico to be affected by blue-eye disease of pigs, a disease which is not known to exist in the United States. APHIS has not evaluated Mexico, including the State of Nayarit, for blue-eye disease. As a result, APHIS denies permits for the importation of live swine and swine semen from all of Mexico, including Nayarit (9 CFR 93.504(a)(3)). CSF is the disease hazard evaluated in the risk analysis, which does not address blue-eye disease.